

Remarks

Favorable consideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 8-10 and 13-15 are pending in the application. Claims 8-10 and 13-15 have been rejected. Claim 14 has been cancelled, No new matter has been added.

Double Patenting and Claim Objection

The Examiner has stated that claim 14 will be objected to under 37 CFR 1.75 as being a substantial duplicate of claim 8, should claim 8 be found allowable. Furthermore, the Examiner has objected to claim 14 under 37 CFR 1.75(c) as being of improper dependent form and failing to further limit the subject matter of a previous claim. In an effort to expedite prosecution, and in no way acquiescing to the Examiner's rejections of, and objections to, claim 14, applicants have cancelled said claim. Applicants reserve the right to pursue the subject matter of said claim in future applications.

Rejection Under 35 USC §103(a), Obviousness

Claims 8-10 and 13-15 are rejected under 35 U.S.C. §103(a), as being unpatentable over Billich (US patent 5,538,997)(hereafter, "Billich reference") in view of Häbich (US patent 5,633,231)(hereafter, "Häbich reference") and Scholz (D Scholz et al., J. Med. Chem. (1994) 37, 3079)(hereafter, "Scholz reference"). Specifically, the Examiner posits that Billich teaches the instantly claimed compound (example 11) where the only difference is the N-protecting group 3-methylbenzyl ester vs. the benzyl ester. Applicants disagree for at least the following reasons.

The Examiner has acknowledged the novelty of the compounds of the present invention, recognizing that they differ at least in group "R₄" from the compounds of the Billich reference. Furthermore, as the Examiner clearly states, the compounds of the Billich reference are contemplated as HIV inhibitors. Contrarily, the compounds of the present invention have utility in at least the treatment of proliferative disorders, such as of a solid tumors. In the Billich reference there is no hint or indication that the Billich compounds could be useful for the treatment of proliferative disorders.

The Examiner has acknowledged the novelty of the compounds of the present invention, recognizing that they differ at least in group "R_i" from the compounds of the Häbich reference. As the Examiner clearly states, the compounds of the Häbich reference are contemplated as HIV inhibitors. Contrarily, the compounds of the present invention have utility in at least the treatment of proliferative disorders, such as of a solid tumors. In the Häbich reference there is no hint or indication that the Häbich compounds could be useful for the treatment of proliferative disorders.

The Examiner has acknowledged the novelty of the compounds of the present invention, recognizing that they differ at least in group "R₄" from the compounds of the Scholz reference. As the Examiner clearly states, the compounds of the Scholz reference are contemplated as HIV inhibitors. Contrarily, the compounds of the present invention have utility in at least the treatment of proliferative disorders, such as of a solid tumors. In the Scholz reference there is no hint or indication that the Scholz compounds could be useful for the treatment of proliferative disorders.

Applicants respectfully request entry of the amendments to the claims and the specification and submit no new matter is added thereby. Should the Examiner have any questions, please contact the undersigned attorney.

This response is made with three months' extension. However, if it is deemed that additional fees are required, the Commissioner is authorized to charge Deposit Account No. 504409 in the name of Novartis for any fees due.

In view of the above, an early Notice of Allowance is respectfully requested.

Respectfully submitted,

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